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Attorneys for Defendants

ShoreTel, Inc.; John W. Combs; Michael E. Healy;
Edwin J. Basart; Gary J. Daichendt; Thomas Van
Overbeek; Kenneth D. Denman; Charles D. Kissner;
and Edward F. Thompson

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re SHORETEL, INC.
SECURITIES LITIGATION

Case No. C-08-00271-CRB

**REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF SHORETEL DEFENDANTS'
MOTION TO DISMISS CONSOLIDATED
AMENDED CLASS ACTION COMPLAINT**

This Document Relates To:

ALL ACTIONS.

Date: November 7, 2008
Time: 10:00 a.m.
Courtroom: 8, 19th Floor
Judge: Hon. Charles R. Breyer

Pursuant to Rule 201 of the Federal Rules of Evidence, Defendants ShoreTel, Inc. ("ShoreTel"), John W. Combs, Michael E. Healy, Edwin J. Basart, Gary J. Daichendt, Thomas Van Overbeek, Kenneth D. Denman, Charles D. Kissner, and Edward F. Thompson (collectively, the "ShoreTel Defendants") hereby request that, in connection with their accompanying Motion to Dismiss Consolidated Amended Class Action Complaint, the Court take judicial notice of each of the following:

REQUEST FOR JUDICIAL NOTICE ISO
SHORETEL DEFENDANTS' MOTION TO
DISMISS COMPLAINT

1 1. ShoreTel's Form S-1 filed with the Securities and Exchange Commission on or
 2 about June 29, 2007 in connection with its initial public offering (the "Prospectus"). This
 3 document is an SEC filing quoted and relied upon by Plaintiffs throughout their Consolidated
 4 Amended Class Action Complaint (the "Complaint"). *E.g.*, ¶¶ 1, 3, 4, 20, 24, 31, 33, 38, 43.¹
 5 The Complaint expressly alleges that the Prospectus contains materially untrue statements or
 6 omissions, which are the basis for all of Plaintiffs' claims. ¶ 4. A true and correct copy of the
 7 Prospectus is attached as **Exhibit A** to the Declaration of Jennifer L. Kelly in Support of the
 8 ShoreTel Defendants' Motion to Dismiss Consolidated Amended Class Action Complaint (the
 9 "Kelly Declaration"), filed herewith.

10 2. A press release issued by ShoreTel on October 29, 2007 entitled "ShoreTel
 11 Reports Financial Results for Q1 Fiscal 2008." This document was furnished to the SEC in
 12 ShoreTel's Form 8-K filed on or about October 29, 2007 and is also publicly available on
 13 ShoreTel's website, located on the Internet at www.shoretel.com. Further, this press release
 14 contains ShoreTel's expectations for Q2 of Fiscal Year 2008, which are relied upon by Plaintiffs
 15 in the Complaint. *See* ¶ 52 (alleging that on January 7, 2008, ShoreTel announced it had failed to
 16 meet its previously issued guidance for Q2 of Fiscal Year 2008). A true and correct copy of the
 17 October 29, 2007 8-K is attached as **Exhibit B** to the Kelly Declaration.

18 3. A press release issued by ShoreTel on January 7, 2008 entitled "ShoreTel
 19 Announces Preliminary Fiscal Second Quarter Results." This document was furnished to the
 20 SEC in ShoreTel's Form 8-K filed on or about January 7, 2008, and is also publicly available on
 21 ShoreTel's website. Further, this document is quoted and relied upon by Plaintiffs in the
 22 Complaint. ¶¶ 1, 52. A true and correct copy of the January 7, 2008 8-K is attached as **Exhibit C**
 23 to the Kelly Declaration.

24 4. A press release issued by ShoreTel on January 29, 2008 entitled "ShoreTel Reports
 25 Financial Results for Second Fiscal Quarter 2008." This document was furnished to the SEC in
 26 ShoreTel's Form 8-K filed on or about January 29, 2008, and is also publicly available on
 27 ShoreTel's website. A true and correct copy of the January 29, 2008 Form 8-K is attached as

28 ¹ Unless otherwise indicated, all paragraph references herein are to the Complaint.

1 **Exhibit D** to the Kelly Declaration.

2 These materials are all proper subjects of judicial notice. Documents that are filed with
3 the SEC (Exhibits A-D) are properly subject to judicial notice and consideration by the Court on a
4 motion to dismiss. *See, e.g., In re Copper Mountain Sec. Litig.*, 311 F. Supp. 2d 857, 865 (N.D.
5 Cal. 2004); *In re Nuko Info. Sys., Sec. Litig.*, 199 F.R.D. 338, 341 (N.D. Cal. 2000); *In re Gupta*
6 *Corp. Sec. Litig.*, 900 F. Supp. 1217, 1228 (N.D. Cal. 1994); *Belodoff v. Netlist, Inc.*, 2008 WL
7 2356699, at *3 (C.D. Cal. May 30, 2008); *Kramer v. Time Warner, Inc.*, 937 F.2d 767, 773-74
8 (2d. Cir. 1991).

9 The Court may also consider documents referred to and relied upon by Plaintiffs in their
10 Complaint (Exhibits A-C), including portions not mentioned in the Complaint. *See, e.g., In re*
11 *Stac Elecs. Sec. Litig.*, 89 F.3d 1399, 1405 n.4 (9th Cir. 1996); *In re Silicon Graphics Inc. Sec.*
12 *Litig.*, 183 F.3d 970, 986 (9th Cir. 1999); *In re Calpine Sec. Litig.*, 288 F. Supp. 2d 1054, 1076
13 (N.D. Cal. 2003); *In re Burlington Coat Factory Sec. Litig.*, 114 F.3d 1410, 1426 (3d Cir. 1997);
14 *Belodoff*, 2008 WL 2356699, at *3. Indeed, Exhibits A and C are directly quoted from in the
15 Complaint. *See, e.g., ¶¶* 1, 3, 4, 52.

16 The Court may also take judicial notice of “matters of public record,” including press
17 releases that are “capable of accurate and ready determination by resort to sources whose
18 accuracy cannot be reasonably questioned” (Exhibits B-D). *In re Asyst Techs., Inc. Deriv. Litig.*,
19 2008 WL 2169021, at *1 n.1 (N.D. Cal. May 23, 2008); *In re Ligand Pharms., Inc. Sec. Litig.*,
20 2005 WL 2461151, at *2 n.1 (S.D. Cal. Sept. 27, 2005) (taking judicial notice of a press release);
21 *In re Homestore.com, Inc. Sec. Litig.*, 347 F. Supp. 2d 814, 816-17 (C.D. Cal. 2004) (same). All
22 of the press releases subject to this request are publicly available on the SEC website, as well as
23 ShoreTel’s website. As such, they are “capable of accurate and ready determination” and are
24 subject to judicial notice.

1 Accordingly, Defendants respectfully submit that the Court take judicial notice of the
2 foregoing documents and information.

3 Dated: August 26, 2008

FENWICK & WEST LLP

4 By: /s/ Susan S. Muck

Susan S. Muck

5 Attorneys for ShoreTel, Inc.; John W. Combs;
6 Michael E. Healy; Edwin J. Basart; Gary J.
7 Daichendt; Thomas Van Overbeek; Kenneth D.
8 Denman; Charles D. Kissner; and Edward F.
9 Thompson
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